

**SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT**

300 Lakeside Drive, P. O. Box 12688, Oakland, CA 94604-2688

Special Meeting of the Board of Directors

September 16, 2010

9:00 a.m.

This meeting shall consist of a simultaneous teleconference call at the following locations:

BART Board Room, Room 303 Kaiser Center 20 <sup>th</sup> Street Mall – Third Floor 344 – 20 <sup>th</sup> Street Oakland, CA 94612	Monterey Marriott 350 Calle Principal Monterey, CA 93940	Solano County County Administrative Offices 675 Texas Street, 6 <sup>th</sup> Floor Fairfield, CA 94533
--	--	--

AGENDA

MEMBERS OF THE PUBLIC MAY ADDRESS THE BOARD OF DIRECTORS REGARDING ANY MATTER ON THIS AGENDA. PLEASE COMPLETE A “REQUEST TO ADDRESS THE BOARD” FORM (AVAILABLE AT THE ENTRANCE TO THE BOARD ROOM) AND HAND IT TO THE SECRETARY BEFORE THE ITEM IS CONSIDERED BY THE BOARD. IF YOU WISH TO DISCUSS A MATTER THAT IS NOT ON THE AGENDA DURING A REGULAR MEETING, YOU MAY DO SO UNDER GENERAL DISCUSSION AND PUBLIC COMMENT.

ANY ACTION REQUIRING MORE THAN A MAJORITY VOTE FOR PASSAGE WILL BE SO NOTED.

1. Roll Call and Pledge of Allegiance. (Board Room)
2. Public Comment on Item 3 Only.
3. Re-Affirm Award of Two Contracts for the Design-Build and Operation and Maintenance of the Oakland International Airport Connector (Contracts No. 01ZK-110 and No. 01ZK-120.  
Board requested to authorize.
4. Public Comment on Item 5 Only.
5. CLOSED SESSION (Room 303, Board Conference Room)

CONFERENCE WITH REAL PROPERTY NEGOTIATOR.

Property: Property Located at the Millbrae BART Station

District Negotiators: Carter Mau, Executive Manager, Planning & Budget; and Jeffrey P. Ordway, Manager, Property Development

Negotiating Parties: Justin Development, Republic Urban Properties/Green Valley Corporation, TMG Partners, and San Francisco Bay Area Rapid Transit District

Under Negotiation : Price and Terms

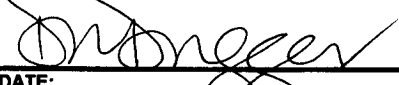

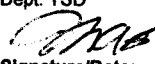
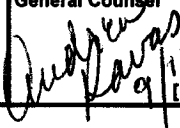
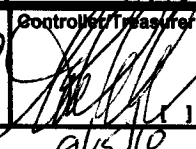
Gov't Code Section: 54956.8

Please refrain from wearing scented products (perfume, cologne, after-shave, etc.) to this meeting, as there may be people in attendance susceptible to environmental illnesses.

BART provides services/accommodations upon request to persons with disabilities and individuals who are limited English proficient who wish to address BART Board matters. A request must be made within one and five days in advance of a Board meeting, depending on the service requested. Please contact the District Secretary's Office at (510) 464-6083 for information.



## EXECUTIVE DECISION DOCUMENT

<b>GENERAL MANAGER APPROVAL:</b> 		<b>GENERAL MANAGER ACTION REQ'D:</b> Approve and forward to the Board of Directors for Action		
<b>DATE:</b> 		<b>BOARD INITIATED ITEM:</b> No		
<b>Originator/Prepared by:</b> Mike Forte <b>Dept:</b> TSD  <b>Signature/Date:</b> 9/15/10	<b>General Counsel</b>  9/15/10	<b>Controller/Treasurer</b>  9/15/10	<b>District Secretary</b> [ ]	<b>BARC</b> [ ]
<b>Status:</b> Routed		<b>Date Created:</b> 09/14/2010		

TITLE:

### RE-AFFIRM AWARD OF TWO CONTRACTS FOR THE DESIGN-BUILD AND OPERATION AND MAINTENANCE OF THE OAKLAND INTERNATIONAL AIRPORT CONNECTOR

NARRATIVE:

#### PURPOSE

To obtain Board authorization for the General Manager to award two contracts for the Oakland International Airport Connector (OAC, or OAC Project) Project.

#### DISCUSSION

The procurement for the OAC Project consists of two Contracts: Contract No. 01ZK-110 for the construction of the OAC Project using a design-build method; and Contract No. 01ZK-120 for the operation and maintenance of the completed system to be performed over a twenty-year period.

On July 22, 2010, the Board adopted four motions related to the OAC Project. Motion 1 reaffirmed that, "upon certification by the Controller/Treasurer that, 1) \$20M in State funds have been committed, and; 2) sufficient Small Starts funds have been obligated by the Federal Transit Administration for the Project and are available for Contract No. 01ZK-110, the General Manager is authorized to award Contract No. 01ZK-110 to Flatiron/Parsons, JV, for the Design-Build of the Oakland International Airport Connector, for the not to exceed price of \$361,022,150."

On August 11, 2010, the California Transportation Commission (CTC) formally noticed a State Transportation Improvement Program (STIP) amendment that would provide \$20 million in new funding for the OAC Project. This item has been calendared on the September 22, 2010, CTC agenda for action and allocation. BART staff expects a unanimous vote.

In a letter dated December 4, 2009, the Administrator of the Federal Transit Administration (FTA), Peter Rogoff, asserted that the "FTA had allocated \$24.99 million in discretionary Section 5309 New Starts Funding to the OAC project", and invited BART to submit an application for New Starts funding. In a separate letter dated December 4, 2009, the FTA also approved BART's request to initiate Preliminary Engineering/Final Design (PE/FD) and

confirmed pre-award authority to incur costs for all PE/FD activities and certain other non-construction activities. On September 1, 2010, the FTA formally accepted BART's revised New Starts application which reflects the changes in the Project funding plan and schedule presented to the Board in its July 22 meeting. While BART staff is currently working cooperatively with FTA staff on its review of project readiness and the remaining Title VI action plan items, FTA will not formally award the grant until later in 2010.

Flatiron/Parsons, JV and Doppelmayr Cable Car, Inc. have currently agreed to extend the validity date of their proposals to September 21, 2010 but have not agreed to any further extensions. Therefore on September 22, 2010, the Flatiron/Parsons, JV and Doppelmayr Cable Car, Inc. proposals may no longer be valid, thereby ending the OAC procurement without a contract award.

Staff recommends that Motion 1 for the award of Contract No. 01ZK-110 be amended to authorize the General Manager to award it immediately in anticipation of pending commitment of \$25 million in Federal New Starts funds by the FTA and favorable action by the California Transportation Commission for \$20 million in State Funding.

### **FISCAL IMPACT**

Funding to award Contract No. 01ZK-110 to Flatiron/Parsons, JV, for the Design-Build of the Oakland International Airport Connector, for the not to exceed price of \$361,022,150, will come from the sources identified in the Project funding plan presented to the Board on July 22, 2010. OAC Project budget and funding sources have not changed from those presented to the Board on July 22.

### **ALTERNATIVE**

The alternative is to decline to revise Motion 1 as adopted by the Board on July 22, 2010. Should the Board choose this alternative and should Flatiron/Parsons JV and Doppelmayr Cable Car Inc. decline to extend the validity of their proposals until the State and Federal New Starts funds are committed, the OAC procurement would come to an end. Should the Board decline to amend Motion 1 and should Flatiron/Parsons JV and Doppelmayr Cable Car Inc. agree to extend their proposal validity date until the State and Federal funding is obligated then the Project may still proceed to implementation.

Should the procurement come to an unsuccessful conclusion, the loss of \$288.8 million in funding currently available and committed to the Project would likely follow, and the Project's implementation would be delayed indefinitely. The Project's unsuccessful ending would also eliminate any subsidies from and associated risks to the General Fund, which are estimated to range from \$24 million to \$115 million, pending commitment of the uncommitted funds which were identified on July 22, 2010.

### **RECOMMENDATION**

Adoption of the following motion:

**MOTION:**

The Board hereby re-affirms that the General Manager is authorized to award Contract 01ZK-110 to Flatiron/Parsons, JV, for the Design-Build of the Oakland Airport Connector, for the not to exceed price of \$361,022,150, and that she may do so immediately in anticipation of pending commitment of \$25 million in Federal New Starts funds by the Federal Transit Administration and favorable action by the California Transportation Commission for \$20 million in State Funding. All other motions passed by the Board on July 22, 2010, regarding the OAC Project remain in effect.